IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 1795 of 2003

Between:

Shaik Satram Khajamiah S/o Peeran Sab
T.Sundupalli Village & Mandal, Kadapa Dist.

..... PETITIONER

AND

-

Inspector of police (Rural), Rayachoty Police Station ,
Rayachoty, Kadapa Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ order or direction declaring the action of the respondents in attempting to interfere with my possession of the property covered by O.S.No.1311/01 on the file of the Hon'ble Prl. Jr. Civil Judge Reyachoty as arbitrary unjust illegal, & without jurisdiction & consequently direct the respondent to forebear from interfering with petitioner possession of the above said land.

Counsel for the Petitioner: MR.C.V.NAGARJUNA REDDY

Counsel for the Respondent: GP FOR HOME

The Court made the following :

ORDER:

The petitioner filed a suit in O.S.No.113 of 2001 on the file of the Court of the Principal Junior Civil Judge, Rayachoty. Though the said Court initially granted ad interim ex-parte injunction, subsequently the suit itself was dismissed for default on 17.7.2002. At that stage, the defendants in the suit approached the respondent complaining that the petitioner is interfering with the property. Presumably for this reason, the respondent addressed a notice to the petitioner calling upon him to produce a copy of the order of the Civil Court, which might have been obtained after 17.7.2002 when the suit was dismissed for default. It is the case of the petitioner that in spite of sending a notice through lawyer on 20.1.2003, the respondent is still interfering with the possession and threatened the petitioner not to interfere with the possession of others.

In this writ petition the petitioner therefore seeks a declaration that the action of the respondent in attempting to interfere with the possession of the property as illegal and arbitrary. The learned counsel for the petitioner has reiterated the submissions as disclosed in the affidavit accompanying the writ petition.

When any person reports to the police that third parties are trespassing into the land, it is the primary duty of the police to make enquiries as to whether the alleged perpetrators have any right to interfere with the possession. It is precisely what the petitioner has to do. If the petitioner has any case by reason of the Civil Court's order, it would be open to him to pursue the same to its logical end. Having got the suit dismissed for default, he ought to have filed an application for restoration of the suit. Therefore nothing prevented the petitioner to approach the same Civil Court and obtain appropriate interim orders. This writ petition is filed on mere apprehension and there is no truth in the allegations made by the petitioner. However, liberty is given to the petitioner to obtain appropriate orders before the Civil Court and then produce before the respondent.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

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V.V.S. RAO, J.

8th July, 2005

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To

1 Inspector of police (Rural), Rayachoty Police Station,
Rayachoty, Kadapa Dist.

2 Two CCs to G.P. for Home, High Court Buildings, Hyderabad.

3 2 CD copies.